



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/666,657

09/19/2003

Richard S. Duncan

D0932-00389

8995

8933

7590

06/20/2006

DUANE MORRIS, LLP  
IP DEPARTMENT  
30 SOUTH 17TH STREET  
PHILADELPHIA, PA 19103-4196

EXAMINER

MILLER, ROBERT J

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/666,657	<b>Applicant(s)</b> DUNCAN ET AL.	
	<b>Examiner</b> Robert J. Miller	<b>Art Unit</b> 3635	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 September 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/19/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

This is a first Office action on the merits for application serial number 10/666,657 filed September 19, 2003. Claims 1-26 are pending.

### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 3635

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-20, and 26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over GB 2,145,756 A Quinnell.

Quinnell '756 discloses and shows in figures a baffled attic vent 3, having an elongated member with a pair of longitudinal sides, first and second traverse ends, and a central panel with an integral baffle surface. Formed within the baffle surface are traverse supports within the central panel of the vent. The longitudinal side portions have an integral flange at the top edge. The vent of Quinnell '756 extends substantially between between a pair of roof rafters between the soffit area of a roof and the attic air space. Quinnell '756 shows all of the structural embodiments recited in the above claims as seen in figures 1, 3, and 4 and described on page 2, lines 26-104 as such is considered capable of convective airflow reading, under a 5 Pa air pressure differential, of at least about 95 CFM.

Alternatively, it would have been obvious at the time of invention to one having ordinary skill in the art to have designed the vent of Quinnell '756 to the necessary size to optimize the airflow there through inherently providing a convective airflow reading under a 5 Pa air pressure differential, of at least about 95 CFM.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Quinnell '756.

Quinnell '756 discloses a baffled attic vent having all of the structural features of claim 21 except the method of making the baffled attic vent including forming and cutting a polymeric insulation material.

Quinnell '756 teaches forming a plastic material (col. 1 lines 94+) which inherently is an insulating material into a baffled attic vent. Quinnell '756 fails to specify cutting the member to a required length at achieve the claimed airflow reading. It would have been obvious at the time of the invention to one having ordinary skill in that the art that the vent of Quinnell '756 could have been cut to any desired or required length to meet particular design installation requirements. Sizing the structure of the invention to meet a particular airflow reading would have been an obvious choice of design at the time of the invention to one having ordinary skill in the art to meet desired design choice airflow parameters. In re Boesch, 617 F.2d272 205 USPQ 215 (CCPA 1980).

Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Quinnell '756 in view of USP 4,903,445 Mankowski.

Quinnell '756 discloses all the limitations of claim 21 above except for the use of semi-rigid, semi-resilient, foamed, closed cell polymeric resin said resin which may be either a polystyrene or polypropylene, said polymer resin being moisture permeable and providing a vapor barrier.

Mankowski '445 teaches the use plastic or specifically polypropylene material [claims 3,4, 16] to form a roof ventilator.

It would have been obvious at the time of invention to one having ordinary skill in the art at the time of invention to have utilized equivalent materials such as polystyrene or polypropylene because said materials would perform substantially the same function in making the attic vent.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Miller whose telephone number is 571-272-1782. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rjm

Robert Canfield  
Primary Examiner

A handwritten signature in black ink, appearing to read 'R. Canfield', written over a horizontal line.